

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
No. 7:13-CR-73-D

UNITED STATES OF AMERICA	)	
	)	
v.	)	<b>ORDER</b>
	)	
LACRYSTAL RENEE MCCLAIN,	)	
	)	
Defendant.	)	

On September 4, 2013, pursuant to a plea agreement [D.E. 14], LaCrystal Renee McClain (“McClain”) pleaded guilty to conspiracy to distribute and possess with the intent to distribute a quantity of heroin in violation of 21 U.S.C. §§ 841(a)(1) and 846 (“count one”) and conspiracy to commit money laundering in violation of 18 U.S.C. § 1956(a)(1)(A)(i) and (h) (“count two”). See [D.E. 14] 4–6; [D.E. 10]. On January 6, 2014, the court held McClain’s sentencing hearing. See [D.E. 20]. At the hearing, the court adopted the facts contained in the Presentence Investigation Report (“PSR”). See Fed. R. Crim. P. 32(i)(3)(A)–(B). The court calculated McClain’s total offense level to be 25, her criminal history category to be I, and her advisory guideline range to be 57–71 months. See [D.E. 20]. Pursuant to U.S.S.G. § 5K1.1, the court then granted the government’s motion for a downward departure. See id.; [D.E. 18]. After thoroughly considering all relevant factors under 18 U.S.C. § 3553(a), the court sentenced McClain to 36 months’ imprisonment on each count, to run concurrently. See [D.E. 20]. McClain did not appeal.

On February 23, 2015, McClain filed a motion for a sentence reduction under 18 U.S.C. § 3582(c)(2), U.S.S.G. § 1B1.10, and Amendment 782 to the Sentencing Guidelines. See [D.E. 26]. On August 17, 2015, McClain filed a memorandum in support. See [D.E. 28]. McClain’s new advisory guideline range is 46 to 57 months’ imprisonment based on a total offense level of 23 and a criminal history category of I. See id. 5; Resentencing Report. McClain requests a 29-month

sentence. See [D.E. 28] 5; Resentencing Report.

The court has discretion to reduce McClain's sentence. See, e.g., Dillon v. United States, 560 U.S. 817, 827 (2010); United States v. Cole, 618 F. App'x 178, 178–79 (4th Cir. 2015) (per curiam) (unpublished); United States v. Thomas, 546 F. App'x 225, 225–26 (4th Cir. 2013) (per curiam) (unpublished); United States v. Perez, 536 F. App'x 321, 321 (4th Cir. 2013) (per curiam) (unpublished); United States v. Smalls, 720 F.3d 193, 195–97 (4th Cir. 2013); United States v. Stewart, 595 F.3d 197, 200 (4th Cir. 2010). In deciding whether to reduce McClain's sentence, the court finds that McClain engaged in a serious and prolonged conspiracy to distribute heroin and to launder money. See PSR ¶¶ 6–9. Nonetheless, McClain has engaged in some positive behavior while incarcerated on her federal sentence. See [D.E. 28] 6–7.

Having reviewed the entire record and all relevant policy statements, the court finds that McClain received the sentence that was “sufficient, but not greater than necessary” under 18 U.S.C. § 3553(a) and finds that reducing McClain's sentence would threaten public safety in light of her serious criminal conduct. Cf. U.S.S.G. § 1B1.10, cmt. n.1(B)(ii). McClain's serious criminal conduct does not support reducing McClain's sentence. Thus, the court denies McClain's motion for reduction of sentence. See, e.g., Cole, 618 F. App'x at 178–79; Thomas, 546 F. App'x at 225–26; Perez, 536 F. App'x at 321.

In sum, McClain's motion for reduction of sentence [D.E. 26] is DENIED. McClain's motion to appoint counsel [D.E. 23] is DENIED as moot, and McClain's motion to seal [D.E. 29] is GRANTED.

SO ORDERED. This 27 day of June 2016.

  
JAMES C. DEVER III  
Chief United States District Judge